

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ALLEN ANDREW LOVE,

Petitioner,

v.

Case No. 03-70763

SHERRY BURT,

HONORABLE AVERN COHN

Respondent.

_____ /

ORDER DENYING AS MOOT MOTION FOR RELIEF FROM JUDGMENT

This is a habeas case which has long since closed. In 2003, Petitioner Allen Andrew Love filed a pro se petition claiming he was incarcerated in violation of his constitutional rights. He specifically claimed that (1) the trial judge should have disqualified himself, (2) trial and appellate counsel were ineffective, and (3) the prosecutor committed misconduct. The Court denied the petition on the grounds the claims were procedurally defaulted and Petitioner failed to overcome his default. See Opinion and Order Denying Petition for Writ of Habeas Corpus, filed April 13, 2004. This Court and the Court of Appeals for the Sixth Circuit denied certificates of appealability. Petitioner then twice moved in the Sixth Circuit for permission to file a second or successive habeas petition. Both requests were denied. See In re: Allen Love, No. 07-1145 (6th Cir. June 1, 2007); In re: Allen Love, No. 07-2339 (6th Cir. Apr. 28, 2008).

On December 11, 2009, over five years after the Court denied him habeas relief, Petitioner filed a motion for relief from judgment under Fed. R. Civ. P. 60(b). The Court denied the motion. See Order filed January 4, 2010.

On February 9, 2010, Petitioner filed another paper styled Motion for Relief from Judgment under Rule 60(b). The February filing is identical to Petitioner's December filing. It is not clear whether Petitioner received the Court's January 4, 2010 order denying his Rule 60(b) motion as his address has apparently changed. Perhaps that is why Petitioner filed an identical Rule 60(b) motion. Be that as it may, given that the Court denied Rule 60(b) relief on January 4, 2001, Petitioner's current motion is DENIED AS MOOT.

SO ORDERED.

S/ Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: February 23, 2010

I hereby certify that a copy of the foregoing document was mailed to Allen Andrew Love, 139864, Thumb Correctional Facility, 3225 John Conley Drive, Lapeer, MI 48446 and the attorneys of record on this date, February 23, 2010, by electronic and/or ordinary mail.

S/Julie Owens
Case Manager, (313) 234-5160